

United States Patent and Trademark Office



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231 www.uspto.gov

APPLICATION NO.		ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/911,620		07/24/2001	Judith F. Miller	MILJ/101/US	4970	
2543	7590	03/06/2002				
ALIX YAI		TAS LLP	EXAMINER			
750 MAIN STREET SUITE 600				SNOW, BRUC	SNOW, BRUCE EDWARD	
HARTFORD, CT 06103		103		ART UNIT	PAPER NUMBER	
				3738		
				DATE MAILED: 03/06/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

·	Application No.	Applicant(s)					
	09/911,620	MILLER, JUDITH F.					
Office Action Summary	Examiner	Art Unit					
. }	Bruce E Snow	3738					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
Period for Reply A SHORTENED STATUTORY PERIOD FOR RETHE MAILING DATE OF THIS COMMUNICATION Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a lif NO period for reply is specified above, the maximum statutory per Failure to reply within the set or extended period for reply will, by state Any reply received by the Office later than three months after the material patent term adjustment. See 37 CFR 1.704(b). Status	N. 1.136(a). In no event, however, may a re reply within the statutory minimum of thirty iod will apply and will expire SIX (6) MONT	ply be timely filed (30) days will be considered timely. THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).					
1) Responsive to communication(s) filed on _	·						
2a) ☐ This action is FINAL . 2b) ☑	This action is non-final.						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is							
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims							
4) Claim(s) 1-14 is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>1-14</u> is/are rejected.							
7) Claim(s) is/are objected to.	Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.							
Application Papers 9) The specification is objected to by the Examiner.							
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.							
If approved, corrected drawings are required in reply to this Office action.							
12)☐ The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) ☐ All b) ☐ Some * c) ☐ None of:							
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.							
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
a) ☐ The translation of the foreign language provisional application has been received. 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No) 5) Notice of 1	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152)					

Art Unit: 3738

Priority

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) or 120 as follows:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required.

The second application must be an application for a patent for an invention which is also disclosed in the first application (the parent or provisional application); the disclosure of the invention in the parent application and in the second application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ 2d 1077 (Fed. Cir. 1994).

Claim Rejections - 35 USC § 102

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

Art Unit: 3738

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Brickman (3,161,200). Brickman discloses a breast prosthesis 40, 80 having hook material 42, 44 (see figure 6) positioned on the front surface. The hook material is configured to engage loop material 76, 77 positioned in a bust cup 30 for releasable attachment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brickman (3,161,200) in view of Eberl et al (4,681,587).

Brickman teaches a breast prosthesis and bust cup system as described above. However, Brickman is silent in regards hook-and-loop fastener material on the rear surface of the breast prosthesis for attachment of a comfort pad. Eberl et al teaches detachably coupling a comfort pad (3b and 4) to a breast prosthesis 1 utilizing hook-and-loop fasteners 7. It would have been obvious to one having ordinary skill in the art to have utilized the comfort pad attached by hook-and-loop fasteners to the rear surface

Art Unit: 3738

of the breast prosthesis as taught by Eberl et al with the prosthesis of Brickman for increased comfort which can be easily removed for washing (see column 2, lines 1-2).

Referring to figure 3, some of the fasteners 7 are positioned along the periphery of the prosthesis.

Eberl et al teaches the fasteners are "strips" and therefore have a length greater than the width. Also, Brickman teaches length greater than width.

Eberl et al is silent whether the hook or loop portion of the fastener is attached to the rear of the prosthesis. It would have been an obvious reversal of parts to have either and would have been obvious to one having ordinary skill in the art. Note that Brickman teaches the hook portion position on the prosthesis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E Snow whose telephone number is (703) 308-3255. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703)308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Art Unit: 3738

bes February 28, 2002

> BRUCE SNOW PRIMARY EXAMINER